

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the *Planning Act*, 1990

APPLICATION: CAV A/036/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, MARCH 06, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Norm Lamb	G. Griffiths & Associates Ltd c/o Gordon Griffiths 591 Brant Street Suite C Burlington ON L7R 2G6	CON 2 SDS PT LOT 35 1477 Burloak Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Greenbelt-Parkway Belt
WARD: 1

ZONING: GB
DISTRICT: West

Under Section 45(2) and 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the enlargement of the existing detached dwelling proposing the following variance(s) to Zoning By-law 2014-014:

Under section 45(2) of the *Planning Act*:

No.	Current	Proposed
1	<i>Section 4.14 a)</i> No building may be erected or enlarged unless the land is serviced by municipal water and sewage systems.	To permit a rear addition and attached garage without municipal sewage systems.

Under section 45(1) of the *Planning Act*:

No.	Current	Proposed
1	<i>Table 13.3 (row 6, footnote 2)</i> The minimum interior side yard for a detached dwelling shall be 7.5 metres.	To decrease the minimum interior side yard to 6.98 metres.

CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED

Planning Services:

(Note: Planning Services includes a consolidated comment from the relevant district teams including, Current, Policy and Heritage Planning, Urban Design and Development Engineering)

The following comments are submitted with respect to the matters before the Committee of Adjustment at its meeting to be held on March 6, 2024. The following minor variance applications have been reviewed by the applicable Planning District Teams and conform to and are consistent with the applicable Provincial Policies and Plans, unless otherwise stated. The following comments are provided:

CAV A/036/2024 - 1477 Burloak Dr (West District) (OP Designation: Greenbelt-Parkway Belt)

The applicant proposes to permit the enlargement of the existing detached dwelling which includes a rear addition and attached garage, subject to the variances listed above.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variances from provisions of the Zoning By-law provided the requirements set out under 45(1) or 45(2) in the *Planning Act* are met. The applicant is seeking variances under both 45(1) and 45(2) which will be reviewed below.

Variance under section 45(2) of the *Planning Act*:

According to Section 45(2) of the *Planning Act*, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit, the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed continued until the date of the application to the Committee.

In this instance, the applicant is seeking permission to permit a rear addition and attached garage without municipal sewage systems when according to Section 4.14(a), no building may be erected or enlarged unless the land is serviced by municipal water and sewage systems. The existing dwelling is connected to a municipal water system but is not connected to a municipal sewage system. Pursuant to Section 45(2) of the *Planning Act*, the use was permitted on the day the by-law was passed and in staff's opinion the expansion is appropriate subject to the recommended conditions for the following reasons:

The existing dwelling and the neighbouring dwellings to the north appear to have been originally constructed as residences for Bronte Creek Provincial Park staff. The dwellings were constructed in conformity with the zoning applicable at the time. At some point the parcels were created and later severed from the Park, which may have been done through Crown rights as no severance application is on file with the Town.

When Zoning By-law 1984-063 was adopted the zoning for these lots was changed to Parkway Belt – Agriculture, which did not permit detached dwellings, but did recognize uses that legally existed prior to September 22, 1983. Further, in 2006, By-law 1984-063 was amended to include new provisions to reflect the changes to the Provincial Policy Statement, which included the requirement that adequate public servicing be provided in urban areas. With the passing of Zoning By-law 2014-014, the subject lands are now zoned Greenbelt which permits the use of a detached dwelling and continues to recognize the existing dwelling as legally established. Additionally, the Zoning By-law now clearly stipulates in Section 4.14 that no building shall be erected or enlarged unless the land is serviced by municipal water and sewage systems. The existing dwelling does not comply with Section 4.14 and is considered legal non-conforming as it relates to this regulation.

Based on the application, as submitted, there does not appear to be additional service connections proposed such as a washroom or sink that would result in an additional load to the existing septic system. It is noted that there are no regional or municipal wastewater services currently available on the street.

Section 1.6.6.4 of the Provincial Policy Statement (2020) (PPS) states:

“Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, individual on-site sewage

services and individual on-site water services may be used for infilling and minor rounding out of existing development.”

Per Section 45(2) of the *Planning Act*, the use as a single detached dwelling has continued since it was legally established, and enlargement or extension of the building or structure may be permitted through this application.

Consistent with Halton Region’s comments, to ensure that the existing private sewage system is currently in good condition and is adequate in capacity for the proposed enlargement, the following conditions are recommended:

- 1) That the Owner shall provide a Stamped Letter from an engineer confirming there will be no increased load on the septic system given the proposed development, to the satisfaction of Halton Region
- 2) That the Owner shall provide further details on the uses within the proposed garage and addition (i.e. washroom, laundry machine, etc.), to the satisfaction of Halton Region.
- 3) That the Owner shall provide a revised site plan to show the location of the septic system and to confirm the type of system, to the satisfaction of Halton Region.

Variance under section 45(1) of the *Planning Act*:

Staff’s comments concerning the application of the four tests to this minor variance for reduced interior side yard are as follows:

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject property is designated Greenbelt-Parkway Belt. The Parkway Belt and the Greenbelt are areas within the Town where development is limited in accordance with Provincial policy. Lands in the Parkway Belt in Oakville are primarily designed to provide a linked system of open space and recreational facilities and to achieve other objectives including, but not limited to, the protection of infrastructure corridors, utilities, and an inter-urban transitway.

The subject lands are designated in the Greenbelt Plan (2017) as “Protected Countryside”, with a “Natural Heritage System” overlay. Section 4.5.2 permits single dwellings on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force. The existing dwelling is permitted and the proposed additions do not negatively impact the linked open space system or the designation’s other objectives. The subject property is also subject to the Parkway Belt West Plan and it appears that there are no conflicts. The proposal meets the intent of the Official Plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

The intent of regulating side yard setbacks is to ensure sufficient spacing and buffering between buildings beside one another to provide adequate access and appropriate transition and scale, while also avoiding privacy and overlook concerns and allowing for adequate drainage. The applicant proposes an interior side yard setback of 6.98 metres when 7.5 metres is required, representing a 0.52 metre reduction. Staff are of the opinion that the request maintains the general intent and purpose of the Zoning By-law.

As an advisory note, the subject property is subject to Ministers Zoning Order 481/73. At the point of building permit, the applicant will need to submit communication from the Ministry of Municipal Affairs and Housing (MMAH) confirming there are no conflicts.

Is the proposal desirable for the appropriate development of the subject lands and minor in nature?

Staff are of the opinion that the proposal represents appropriate development of the subject property. The residential use of the property as it relates to the proposed additions are compatible and similar to the existing conditions in the area, noting that the properties to the north also have garages. The variance is minor in nature and will not create any undue adverse impacts to adjoining properties or the existing neighbourhood character.

Recommendation:

Subject to the conditions of approval, staff do not object to the proposed variances. Should this minor variance request be approved by the Committee, the following conditions are recommended:

1. The additions be constructed in general accordance with the submitted site plan and elevation drawings dated 11.04.2023;
2. That the approval expires two (2) years from the date of the decision if a Building Permit has not been issued for the proposed construction; and
3. That the Owner shall provide a Stamped Letter from an engineer confirming there will be no increased load on the septic system given the proposed development, to the satisfaction of Halton Region
4. That the Owner shall provide further details on the uses within the proposed garage and addition (i.e. washroom, laundry machine, etc.), to the satisfaction of Halton Region.
5. That the Owner shall provide a revised site plan to show the location of the septic system and to confirm the type of system, to the satisfaction of Halton Region.

Fire: No concerns for Fire.

Oakville Hydro: Please note, 1477 Burloak Drive is no longer serviced by Oakville Hydro, the property is serviced by Burlington Hydro.

Transit: No Comments received.

Finance: None

Halton Region:

- The subject property is within the Regional Natural Heritage System (RNHS), therefore the proposed development would trigger the Environmental Impact Assessment (EIA) requirements in accordance with Sections 118 (3) & (3.1)c) of the Regional Official Plan (ROP). Regional staff would consider it appropriate to waive the Region's EIA requirements in this instance as the proposed works will be setback sufficiently from any sensitive natural features or areas and will not likely result in any impacts on the features or ecological functions of the Regional Natural Heritage System.
- The subject lands are located within an area of Archaeological Potential. Although the property has already been disturbed with an existing development, as an advisory note, should deeply buried archaeological remains/resources be found on the property during construction activities, the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (MCM) must be notified immediately. In the event that human remains are encountered during construction, the Owner shall immediately notify the police or coroner, the Registrar, the Ministry of Public and

- Business Service Delivery (MPBSD), who administers provisions of that Act related to burial sites, and the MCM.
- Regional staff request the following conditions be added to the Committee of Adjustment's decision for the subject lands:
 - That the Owner shall provide a Stamped Letter from an engineer confirming there will be no increased load on septic system given the proposed development, to the satisfaction of Halton Region
 - That the Owner shall provide further details on the uses within the proposed garage and addition (i.e. washroom, laundry machine, etc.), to the satisfaction of Halton Region.
 - That the Owner shall provide a revised site plan to show the location of the septic system and to confirm the type of system, to the satisfaction of Halton Region.
 - Regional staff note that should there be a future application proposing intensification of the site, staff may require compliance with section 3.1, 'Private Services Within the Urban Area' of the Urban Services Guidelines, which outlines that all new development within the Urban area designation is to proceed on the basis of connection to full municipal services. As such, there is an expectation that this site will not perpetually rely on partial services.
 - Regional staff has no objection, subject to the above conditions being included, to the proposed minor variance application seeking relief under Section 45(2) of the Planning Act in order to permit a rear addition and attached garage without municipal sewage systems, and Section 45(1) of the Planning Act in order to permit a decrease in the minimum interior side yard, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the enlargement of the existing detached dwelling on the Subject Property.

Ministry of Municipal Affairs and Housing (M.M.A.H): Thank you for circulating the minor variance application respecting 1477 Burloak Drive in the Town of Oakville (CAV A/036/2024). Ministry staff have no concerns from a provincial perspective on the application.

Enbridge: No Comments received

Bell Canada: No Comments received

Letter(s)/Emails in support: None

Letter(s)/Emails in opposition: None

Note: *The following standard comments apply to all applications. Any additional application specific comments are as shown below.*

- The applicant is advised that permits may be required should any proposed work be carried out on the property i.e. site alteration permit, pool enclosure permit, tree preservation, etc.
- The applicant is advised that permits may be required from other departments/authorities (e.g. Engineering and Construction, Building, Conservation Halton etc.) should any proposed work be carried out on the property.
- The applicant is advised that any current or future proposed works that may affect existing trees (private or municipal) will require an arborist report.

- The applicant is advised that any current or future proposed works will require the removal of all encroachments from the public road allowance to the satisfaction of the Engineering and Construction Department.
- The applicant is advised that the comments provided pertain only to zoning and are not to be construed as a review or approval of any proposal for the site. This review will be carried out through the appropriate approval process at which time the feasibility/scope of the works will be assessed.
- Unless otherwise stated, the Planning basis for the conditions referenced herein are as follows:
 - Building in general accordance with the submitted site plan and elevation drawings is required to ensure what is requested and ultimately approved, is built on site. This provides assurance and transparency through the process, noting the documents that are submitted with the application, provide the actual planning, neighbourhood and site basis for the request for the variances, and then the plans to be reviewed through the building permit and construction processes.
 - A two (2) year timeframe allows the owner to obtain building permit approval for what is ultimately approved within a reasonable timeframe of the application being heard by the Committee of Adjustment based on the requirements when it is processed, but cognizant of the ever-changing neighbourhoods, policies and regulations which might then dictate a different result. Furthermore, if a building permit is not obtained within this timeframe, a new application would be required and subject to the neighbourhood notice circulation, public comments, applicable policies and regulations at that time.

Requested conditions from circulated agencies:

1. The additions be constructed in general accordance with the submitted site plan and elevation drawings dated 11.04.2023.
2. That the approval expires two (2) years from the date of the decision if a Building Permit has not been issued for the proposed construction.
3. That the Owner shall provide a Stamped Letter from an engineer confirming there will be no increased load on the septic system given the proposed development, to the satisfaction of Halton Region.
4. That the Owner shall provide further details on the uses within the proposed garage and addition (i.e. washroom, laundry machine, etc.), to the satisfaction of Halton Region.
5. That the Owner shall provide a revised site plan to show the location of the septic system and to confirm the type of system, to the satisfaction of Halton Region.

A rectangular box containing a handwritten signature in blue ink that reads "Heather McCrae".

Heather McCrae, ACST
Secretary-Treasurer